

thereby adding significant delays to the licensing process without any assurance that the second iteration will successfully avoid the problems of the initial auction?

The Commission might attempt to avoid the pitfalls of a bidder winning too much in a simultaneous auction by allowing bidders to specify spending or other limits (e.g., total population in license areas) prior to the auction. Of course, this approach has significant problems of its own. Most importantly, such pre-established expenditure limits would force the Commission to make difficult decisions regarding the order in which sealed bids are opened,<sup>57</sup> which, in hindsight, may not be the optimal ordering.

In the end, the shortcomings of both purely sequential and purely simultaneous auctions are rooted in the absence of an auctioning mechanism which bidders can use to convey their combinatorial values. For example, unless a bidder has some vehicle for telling the auction that it only wants to win either a particular combination of licenses or none at all, he risks winning either too few licenses (under a purely sequential model) or too many licenses (under a purely simultaneous model). Seen in this light, the Commission should reject proposed auction designs which rely entirely on either a sequential or simultaneous approach and which include no mechanism for conveying combinatorial values. By contrast, the Commission's proposed auction design, which supplements the time-tested

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<sup>57</sup> See Notice at ¶ 64.

sequential English oral auction with a properly tailored combinatorial bidding mechanism, will not only encourage widespread bidder participation, but will also allow these bidders to express more accurately their interdependent values. Together, these two auction vehicles forge an auction design which, as modified by CTIA's proposal to preannounce the winning combinatorial bid, represents the optimal method for licensing PCS spectrum, since it strikes the best balance between theoretical efficiency on the one hand and simplicity, practical workability, and openness to all bidders on the other.

**III. BASED ON RECENT CLARIFICATION OF CONGRESSIONAL INTENT, CTIA CONCURS WITH THE NEAR-UNIFORM CONSENSUS IN THE COMMENTS THAT INTERMEDIATE MICROWAVE LINKS SHOULD NOT BE SUBJECT TO COMPETITIVE BIDDING**

In its initial comments, CTIA supported the Commission's proposal to subject intermediate microwave links to competitive bidding.<sup>58</sup> CTIA took this position based on its desire to avoid preferential spectrum licensing treatment to those entities making use of these intermediate links, a group that includes cellular carriers. However, based on its review of the record and a recent letter from Chairman Dingell clarifying congressional intent on this issue, CTIA reverses its earlier position.

Virtually all commenters oppose the use of auctions to license intermediate microwave links. These commenters present

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<sup>58</sup> CTIA Comments at 31-34.

persuasive legal and policy arguments in support of their opposition.<sup>59</sup>

More importantly, a recent letter from Chairman Dingell to Chairman Quello makes clear that Congress did not intend for the Commission to auction these links.<sup>60</sup> The Dingell Letter points out that use of the word "directly" in Section 309(j)(2)(A) was intended to distinguish between "those who subscribe to spectrum-based services and others whose use of the spectrum is incidental to some other service."<sup>61</sup> Consequently, Chairman Dingell concludes that

inasmuch as these [intermediate] links are incidental to the provision of a different, and not necessarily spectrum-based, service, subjecting these licenses to competitive bidding procedures would be inappropriate.<sup>62</sup>

In light of this recent clarification of congressional intent and the cogent legal and policy arguments cited above, CTIA joins the near-unanimous consensus opposing the use of competitive bidding to assign intermediate microwave links.

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<sup>59</sup> See e.g., Ameritech Comments at 2; AT&T Comments at 16-17; BellSouth Comments at 45; Comcast Comments at 14-15; McCaw Comments at 25-29; Pacific Bell and Nevada Bell Comments at 18-19; PacTel Comments at 8-10; Rural Cellular Association Comments at 3-5; Southwestern Bell Comments at 6-7; Sprint Comments at 21-23; Telocator Comments at 18-19; Time Warner Telecommunications Comments at 6-9; Utilities Telecommunications Council Comments at 7-8.

<sup>60</sup> Letter of the Honorable John D. Dingell to the Honorable James H. Quello, Chairman, Federal Communications Commission (November 18, 1993) ("Dingell Letter").

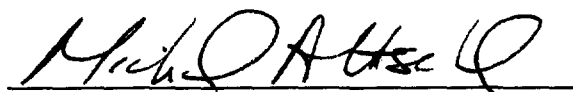
<sup>61</sup> Dingell Letter at 1-2.

<sup>62</sup> Id. at 2.

## CONCLUSION

The Commission must look beyond what is theoretically possible and consider what will work most effectively as a practical matter for auctioning PCS spectrum, particularly given the limited statutory timeframe for PCS implementation. Toward this end, CTIA continues to believe that an auction design which uses sequential English oral auctions to award individual geographic areas and limited combinatorial bidding to license larger geographic areas, and which preannounces the winning combinatorial bid, strikes the optimal balance between theoretical possibilities and practical workability, while also encouraging widespread participation in PCS auctions.

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